

26 U.S.C. § 7205
False Withholding Allowance Certificate, Form W-4

IN THE DISTRICT COURT OF THE UNITED STATES
 FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.)	No. _____
)	26 U.S.C., § 7205
_____)	

The United States Attorney charges:

That on or about the ____ day of _____, 19__, in the ____ District of _____, [***Defendant's Name***], a resident of [***City***], [***State***], who during the calendar year 19__ was employed by [***Name of Employer***], a resident of [***City***], [***State***], and who was required under the Internal Revenue laws to furnish [***Name of Employer***] with a signed Employee's Withholding Allowance Certificate, Form W-4, setting forth the number of withholding allowances claimed on or about the date of the commencement of employment by [***Name of Employer***], did willfully supply a false and fraudulent Employee's Withholding Allowance Certificate, Form W-4, to [***Name of Employer***], on which he [she] claimed ____ withholding allowances, **1** whereas, as [***Defendant's Name***] then and there well knew and believed, he [she] was entitled to claim only ____ withholding allowances. **2**

In violation of Title 26, United States Code, Section 7205.

 United States Attorney

COMMENTS

1 The Government does *not* have to prove the number of allowances that the defendant could claim. See ***United States v. McDonough***, 603 F.2d 19, 23-24 (7th Cir. 1979).

2 The Fifth Circuit has ruled that "withholding exemptions" and "withholding allowances" are the same in the context of the sufficiency of a Section 7205 indictment. ***United States v. Anderson***, 577 F.2d 258, 261 (5th Cir. 1978).

NOTES

1 Where appropriate, the following language should be substituted: "he [she] claimed exemption from withholding."

2 Where appropriate, the following language should be substituted: "he [she] was not exempt from withholding."